

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

**In re: PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESAL PRICE LITIGATION**

MDL No. 1456
Civil Action No. 01-CV-12257-PBS
Subcategory Case. No. 03-10643-PBS

THIS DOCUMENT RELATES TO:

Hon. Patti B. Saris

The City of New York, et al.,

Plaintiffs,

v.

Abbott Laboratories, Inc., et al.,

Defendants.

**DEY DEFENDANTS' MOTION TO AMEND THE COURT'S
FEBRUARY 9, 2010 MEMORANDUM AND ORDER**

Defendants Dey, Inc. and Dey Pharma, L.P., formerly known as Dey, L.P. (collectively “Dey”), by their undersigned attorneys, move the Court to amend its January 27, 2010 Memorandum and Order, as amended on February 9, 2010, (Docket No. 6905) (the “*FUL Decision*”), to eliminate any references to Dey, as it did for Ethex and Boehringer, on the grounds that Dey had reached a settlement with the plaintiffs in this action, certain counties in New York State, prior to the entry of that order. Dey incorporates herein the accompanying memorandum of law. For the Court’s convenience, annexed hereto as Exhibit A is a proposed order setting forth the appropriate revisions. Plaintiffs have advised us that they do not object to the request as set forth in the proposed order. Notably, the proposed order makes clear that the relief requested would not affect the effective date of this Court’s original January 27, 2010 order

or reset any deadlines associated therewith, including deadlines associated with any party's right to appeal or otherwise seek relief therefrom.

WHEREFORE, for the reasons set forth above and as more fully set forth in the accompanying memorandum of law, Dey respectfully requests that the Court amend the *FUL Decision* to eliminate any references to Dey.

Dated: April 7, 2010

Respectfully submitted,

KELLEY DRYE & WARREN LLP

By: /s/ Philip D. Robben
Paul F. Doyle (BBO # 133460)
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Attorneys for Defendants Dey, L.P. and Dey, Inc.

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1(a)(2)

I, Philip D. Robben, certify that I have conferred with Joanne Cicala, counsel for Plaintiffs in this action and have attempted in good faith to resolve or narrow the issues of the within motion. I further certify that Plaintiffs have advised us that they do not object to this request.

/s/ Philip D. Robben

Philip D. Robben

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was delivered to all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2, by sending on April 7, 2010, a copy to LexisNexis File and Serve for posting and notification to all parties.

By: /s/ Philip D. Robben
Philip D. Robben